

## **REMARKS**

Claims 1, 9-10, 13, 18-19, 29 and 35 are currently amended. Claims 1-37 are pending in the application.

### **Claim Rejections – 35 U.S.C. 103(a)**

Claims 1, 3-7, 9-15, 17-19, 28, 29 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,192,388 (*Cajolet*) in view of US 7,590,746 (*Slater*) and further in view of Official Notice. Applicants respectfully traverse this rejection.

#### **Claim 1**

Amended claim 1 is discussed first. Claim 1 as amended, is directed to a method which recites indicating to two or more remote systems in a distributed data processing system that a task, in a task list, is available for processing based on a distribution list, wherein the task is a compilation task and wherein an indication specifies at least one resource requirement. Amended claim 1 also recites receiving at least one response from each of at least two of the two or more remote systems capable of performing the task responsive to receiving the indication, wherein the at least one response is based on a determination by the two or more remote systems that the at least one resource requirement is satisfied, and wherein each of the responding remote systems has reserved at least a portion of its respective resources for performing the task based at least in part on the at least one resource requirement. Amended claim 1 further recites assigning the task from the task list to a remote system of the at least two remote systems that responds first to the indication that the task is available for processing, and wherein assigning the task is performed without comparing operational capabilities of the at least two remote systems to each other.

The Examiner's rejection of claim 1 is incorrect at least because *Cajolet* and *Slater*, either alone or in combination, do not teach at least one claimed feature. For example, amended claim 1 recites "wherein each of the responding remote systems has reserved at least a portion of its respective resources for performing the task based at least in part on the at least one resource requirement." In the Final Office Action dated May 26, 2010, the Examiner argued that *Cajolet* teaches this claimed feature because *Cajolet* discloses available resources at an assistant computer. See Final Office Action, p.7 (citing *Cajolet*, Fig. 8). *Cajolet*, however, does not teach reserving resources, as called for in amended claim 1. In fact, *Cajolet*, as cited by the Examiner with respect to Figure 8, is only concerned with determining an "interest value" for a helper computer to evaluate for its response to a request for help. See *Cajolet*, col. 11, line 11 to col. 12, line 24. *Cajolet* is silent with respect to reserving resources, and thus *Cajolet* is also silent with respect to the claimed feature of "each of responding remote systems has reserved at least a portion of its respective resources for performing the task based at least in part on the at least one resource requirement."

In the Final Office Action dated May 26, 2010, the Examiner argues that *Slater* does not check for operational capabilities, and thus *Slater* allegedly discloses the claim amendment regarding assigning a task without comparing operational capabilities. In the previous response to office action filed by Applicants, claim 1 was amended to recite, *inter alia*, assigning the task from the task list to a remote system of the at least two remote systems that responds first to the indication that the task is available for processing, and wherein assigning the task is performed without comparing operational capabilities of the at least two remote systems to each other. In the Advisory Action, the Examiner argues that the Background section of *Slater* teaches alternative load-balancing techniques for servers in which the director server (or router) sends an

investigatory signal to the web tier servers and assess which server had the quickest response time (*i.e.*, *Slater* teaches “measuring response time”), and to direct the request to be serviced to the web tier data content server which replied fastest.” *See* Advisory Action, p.3; *see Slater*, col. 1, lines 37 to 63. The Examiner then argues that this disclosure teaches the claimed feature of without comparing operational capabilities of the at least two remote systems to each other. The Examiner’s position is problematic for several reasons. For instance, the Background section of *Slater* goes on to say that while telecommunication links are the major factor in response time, the response time may be influenced by the CPU. *See id.* That is, the CPU speed is compared as part of the response time. *Slater* thus explicitly discloses that operational capabilities are compared. In contrast, claim 1 recites “without comparing operational capabilities of the at least two remote systems to each other.” In other words, while *Slater* teaches determining the quickest response time for which CPU properties are a part, but claim 1 recites “without comparing operational capabilities of the at least two remote systems to each other.”

In the Final Office Action, the Examiner argues that the response time checked by the system of *Slater* “does not mean that the load balancer compares the system’s performance to assign task.” *See* “Response to Arguments” section, p.2 of the Final Office Action dated 05/26/2010. However, this assertion is contradicted by the disclosure of *Slater*. In the Final and Advisory Office Actions, the Examiner has improperly mixed the teachings of the Background section of *Slater* with the various embodiments of *Slater*. For example, *Slater*’s teaching clearly indicates its system provides software for controlling allocation of the request for a specific resource on the network of resource servers to a selected resource server, wherein the software includes a director adapted to direct the request to the selected server and wherein the director is adapted to receive a capacity input derived from an evaluation of capacities of each of the

resource servers to serve out a specific resource. See *Slater*, col. 11, lines 44-56. Moreover, *Slater* actually affirmatively indicates that the “director” is adapted to select the selected resource server using the capacity input to establish that the server has capacity to serve out the specific resource. *Id.* This clearly indicates that *Slater* indeed checks the operational capabilities of the system, which is subject matter that is in direct contrast to the claims, and teaches away from the subject matter of the claims (as previously amended). This previous amendment includes the claimed feature that the assigning of the task is performed without comparing operational capabilities of the at least two remote systems to each other. Therefore, in contradiction to the Examiner’s assertion in the Final Office Action, *Slater* indeed checks for the operational capabilities of the system when assigning resource tasks.

Claim 1 also recites “assigning the task from the task list to a remote system of the at least two remote systems that responds first to the indication.” In the Final and Advisory Office Actions, the Examiner admits that *Cajolet* does not teach this claimed feature. See Final Office Action, pp. 3-5. The Examiner, however, argues that *Slater* teaches this claimed feature because *Slater* allegedly discloses a load balancing technique for assigning a request service to a server which replies fastest to an investigatory signal. See *id.* *Slater* teaches a load-balancing technique employed by a director server which waits for replies from web tier servers. See *Slater*, col. 1, lines 50-55. *Slater* describes how the director servers use this technique for “measuring response time.” See *id.* at lines 55-56. In other words, *Slater* does not determine which web tier server is the first to respond. Rather *Slater* teaches that the web tier server measures response time, or, put another way, *Slater* measures the time from the sending of the investigatory signal until the receipt of the web tier server response. In contrast, claim 1 calls for “assigning the task from the task list to a remote system of the at least two remote systems that

responds first to the indication.” As such, *Slater* does not, and cannot, teach this claimed feature, and *Cajolet*, as admitted by the Examiner, fails to remedy the fundamental deficiencies of *Slater*.

Applicants respectfully submit that for at least this reason, as well as arguments presented during the course of this prosecution, claim 1 is allowable. For at least these reasons, the claim 1 dependent claims [2-9] are allowable. For at least similar reasons, claims 10, 18, 19, 29, 32 and 35 (and their respective dependent claims) are also allowable.

### **Claim 13**

Amended claim 13 is discussed next. Claim 13 as amended, depends from article claim 10, and recites “wherein the instructions when executed enable the processor to allow the remote system having at least one of a specified processing speed and a desirable past performance to perform the task, wherein the past performance comprises at least one of a past completed compilation task and a performance on a project compilation basis.” The Specification at p.18, line 21 to p.19, line 5 provides exemplary support for this claim amendment. Applicants respectfully submit that the cited references do not teach allowing a remote system with a desirable past performance to perform a task. *Slater* is concerned with load balancing, and *Cajolet* is concerned with comparing current performance characteristics.

For at least these reasons, claim 13 is allowable.

The Examiner rejected claims 2, 8, 16, 20-27, 30 and 32-37 under 35 U.S.C. §103(a) as being unpatentable over *Cajolet* in view of *Slater* and further in view of some combination of US 2007/0011226 (*Hinni*), US 2002/0087612 (*Harper*), US 2002/0007389 (*Jones*) and *ON*. Applicants respectfully traverse this rejection.

While the Examiner has rejected the remaining claims [2, 8, 16, 20-27, 30 and 32-37] over *Cajolet* and *Slater* in view of various and sundry references, Applicants respectfully submit

that the independent claims 1, 10, 18, 19, 29, 32 and 35, as shown above, are allowable over *Cajolet* and *Slater*. Therefore, the remaining claims are also allowable for at least this reason.

Reconsideration of the present application is respectfully requested.

In light of the arguments presented above, a Notice of Allowance is respectfully solicited. If for any reason the Examiner finds the application other than in condition for allowance, **the Examiner is requested to call the undersigned attorney** at the Houston, Texas telephone number (713) 934-4069 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,

WILLIAMS, MORGAN & AMERSON, P.C.  
CUSTOMER NO. 62293

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By: /Jaison C. John/

Jaison C. John, Reg. No. 50,737  
10333 Richmond, Suite 1100  
Houston, Texas 77042  
(713) 934-4069  
(713) 934-7011 (facsimile)

ATTORNEY FOR APPLICANT(S)